

S. Siddappa and Others Vs. State of Karnataka and Another

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Court : Karnataka

Decided On : Dec-08-1997

Reported in : ILR1998KAR2757; 1998(5)KarLJ36

Judge : H.N. Narayan, J.

Acts : [Karnataka Land Revenue Act, 1964](#) - Sections 71 and 94-A; Karnataka Land Revenue Rules, 1966, Rules 77 and 108-I

Appeal No. : Writ Petition No. 28866 of 1993

Appellant : S. Siddappa and Others

Respondent : State of Karnataka and Another

Advocate for Def. : Sri M.Y. Karigonnnavar, Government Pleader

Advocate for Pet/Ap. : Sri B.M. Siddappa, Adv.

Judgement :

ORDER

1. A very important question that governs the life of the village folk comes up for consideration in this writ petition. The petitioners are agriculturists by profession and are the residents of Ramghatta Village. The petitioners seek a writ of mandamus for declaration that Section 94-A of the [Karnataka Land Revenue Act, 1964](#) amended under Act 21 of 1991 as unconstitutional and for a writ of

mandamus to the second respondent-Tahsildar, Holalkere Taluk, Chitradurga District not to regularise the unauthorised encroachment of lands in favour of the respondents.

2. The specific case of the petitioners is that there are about 500 agricultural families, 1600 heads of cattle and one thousand sheep and goats in the said village. Having regard to the strength of the live stock in the village, the Government was pleased to reserve 17 acres 28 guntas of land in Sy. No. 28 and 13 acres 1 gunta of land in Sy. No. 20 of Ramaghatta Village for the purpose of grazing. These two Survey numbers are shown as 'Sarkari Gomal lands' in the revenue records. The petitioners, subsequently, noticed in the revenue records the names of some persons shown as unauthorised cultivators. The local revenue officers have built-up records in their favour for the purpose of regularisation of the unauthorised occupation in spite of the fact that the Deputy Commissioner has not released these lands for agricultural purpose. It is the petitioners grievance that under Section 71 of the Land Revenue Act and Rule 77 of the Land Revenue Rules, the Government has set apart certain land for free pasturage and now that there is an attempt to make mindless regularisation of the alleged unauthorised cultivation of these reserved lands which if done, would virtually wipe off a small extent of land meant for free pasturage.

3. The contentions raised in the writ petition and the statements canvassed on both sides require careful consideration. The learned Government Header is not in a position to supply the data of cattle strength in the State of Karnataka and the corresponding gomal and other lands available for free pasturage and the land reserved under Section 71 of the Karnataka Land Revenue Act.

4. Section 71 of the Land Revenue Act of 1964 reads as follows.--

'Lands: may be assigned for special purposes and when assigned, shall not be otherwise used without sanction of the Deputy Commissioner. Subject to the general orders of the State Government, Survey Officers, whilst survey operations are proceeding under this Act, and at any other time, the Deputy Commissioner, may set apart lands which are the property of the State Government and not in the lawful occupation of any person or aggregate of persons in any village or portions

of a village, for free pasturage for the village cattle, for forest reserves or for any other public purpose; and lands assigned specially for any such purpose shall not be otherwise used without the sanction of the Deputy Commissioner; and in the disposal of lands under Section 69 due regard shall be had to all such special assignments'.

A perusal of this provision abundantly indicates the intention of the Government to set apart lands for free pasturage for the village cattle and to reserve and protect all other lands for the purpose they have been obtained. The State Government thought it fit to empower the Deputy Commissioner of the District to preserve these lands having regard to the special circumstances.

5. The provisions of Karnataka Land Revenue Act and rules have been amended from time to time enabling the revenue authorities to find out extra land of the Government for distribution among landless and other needy persons. Section 94-A of the said Act is amended for the specific purpose of constituting the Land Grant Committee. The Government of Karnataka thought it fit to introduce Rule 108-I of the Karnataka Land Revenue Rules of 1966. Under this special rule, the Government has directed the authorities to reserve certain Government lands for the purpose notified therein which reads as follows.--

'Certain lands not to be granted.--Notwithstanding anything contained in this Chapter, lands assigned for special purpose under Section 71 of the Act, and lands described in revenue records as Devarakadu, Urduve, Gunduthope, Tankbed, Phut Kareb Kharab Halla, date reserve, burial grounds and such lands which in the opinion of the Government is required for public purpose, shall not be granted'.

Devarakadu, Urduve, Gunduthope, Tankbed, Phut Kareb Kharab Halla, date reserve, burial grounds can only be found in the revenue records. In fact, one finds it difficult even to locate a Gunduthope or a Tankbed in the villages. The gomal lands and the gunduthope is a gift to the villagers. They have been tampered with successfully from time to time by the special orders of the Deputy Commissioners unmindful of the strength of the cattle, the need of the people and the purpose for which the lands have been reserved. Though, relevant provisions are very much

found in the statute book, the authorities empowered to enforce these provisions under the Land Revenue Act and Rules have failed to take special care to preserve these lands for the purpose they have been specifically assigned. The quality of the rural life can only be maintained by providing free pasturage to cattle, preserving Gokatte for providing drinking water to the cattle, protecting and preserving Gunduthope where the villagers find some shade for the people and the livestock. It is true that civilisation has entered the life of the rural people by way of roads, electricity, water, rural health and education. These are absolutely necessary for improving the quality of life of the rural people. But, the very essence of village life consists in preserving the lands reserved under Section 71 of the Karnataka Land Revenue Act, Rule 108-I of the Karnataka Land Revenue Rules, 1966. We hardly find a plot consisting of a few well grown trees in the villages. Those are the realms of the past. It, therefore, becomes an urgent necessity for this Court to remind all those concerned who are empowered to enforce these statutory provisions of Land Revenue Act and Rules made thereunder to act and to give effect to every word and letter of statute. The Deputy Commissioners of the districts who are directly incharge of these lands have to be reminded of their duty to protect and preserve these lands specially reserved by the Government. The newly constituted panchayaths in the Panchayath Raj Act are duty bound to protect and preserve and to raise Gunduthope and to maintain Sarkari godown. Therefore, the Deputy Commissioners are now directed to give effect to the provisions of the Land Revenue Act and to preserve and reserve all these lands specified in the Act for the very purpose specified therein. The Deputy Commissioners shall direct the respective panchayaths to protect and raise these Gunduthopes situated in the respective villages and to further direct the Tahsildar of the Taluk to preserve the godown for free pasturage. The Deputy Commissioners shall take action through the Tahsildar to evict persons who have been in unauthorised occupation of these reserved lands forthwith. It is needless for this Court to direct in this particular case not to regularise any land in favour of the alleged encroachers since they are Sarkari godown which are specifically reserved for free pasturage. The second respondent shall take steps forthwith to evict all those unauthorised occupants from such of those lands.

6. Writ petition stands disposed of accordingly.

7. Send a copy of this order to the Commissioner, Revenue Department, Government of Karnataka, with a further direction to circulate the copy of this judgment to all the Deputy Commissioners in the State to comply with the directions issued in this judgment.

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